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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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03/31/2004

Rick Rowe

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EXAMINER

LIU, I JUNG

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/815,299	Applicant(s) ROWE, RICK	
	Examiner MARISSA LIU	Art Unit 3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/18/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant elected Group I, claims 1-11 and withdrew claims 12-14 without traverse on 11/08/2007.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claim 1 recites the limitation "the desired music content" in claim 1. There is insufficient antecedent basis for this limitation in the claim.
3. Claim 1 recites the limitation "an electronic communication link" in claim 1. There is insufficient antecedent basis for this limitation in the claim.
4. The term "single source" in claim 1 is a relative term which renders the claim indefinite. The term "single source" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.
5. Claim 2 recites the limitation "the Internet" in claim 1. There is insufficient antecedent basis for this limitation in the claim.
6. Claim 5 recites the limitation "said plurality of content providers" in claim 1. There is insufficient antecedent basis for this limitation in the claim.
7. Claim 7 recites the limitation "an identification of music content" in claim 5. There is insufficient antecedent basis for this limitation in the claim.
8. Claim 8 recites the limitation "said music content information results" in claim 5. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 9 recites the limitation "the identified content" in claim 8. There is insufficient antecedent basis for this limitation in the claim.

10. Claim 9 recites the limitation "the price" in claim 8. There is insufficient antecedent basis for this limitation in the claim.

11. Claim 10 recites the limitation "said content" in claim 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 1-2, 4-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Downs et al., US Patent Number: 6,226,618 B1 in view of Hunter et al., US Publication Number: 2002/0111912 A1.

14. As per claim 1, Downs teaches a method of a consumer purchasing music in electronic form from a plurality of providers via a single source comprising the steps of:

establishing an electronic communication link between a first computing device utilized by said consumer and a device associated with said single source (column 1, lines 51-62; column 2, line 54-column 3, line 38; column 6, lines 34-65; column 16, lines 55-66; columns 17-21); said single source (column 1, lines 51-62; column 2, line 54-column 3, line 38; column 6, lines 34-65; column 16, lines 55-66; columns 17-21); said single source identifying at least one source of music content from said plurality of music providers offering music content (column 2,

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line 54-column 3, line 38; column 6, lines 34-65; columns 16-21); said single source accessing an account of said consumer to provide payment for the desired music content (column 2, lines 35-53; columns 16-21); and transmitting data in electronic form representing the desired music content from said at least one source of music content to said first computing device over an electronic communication link (column 1, lines 51-62; column 2, line 54-column 3, line 38; column 6, lines 34-65; column 16-21).

Downs does not teach: accepting an identification of music content desired by said consumer.

Hunter teaches: accepting an identification of music content desired by said consumer (§ 0081, 0126 and 0138).

Therefore, it would be prima facie obvious to one of ordinary skill in the art at the time the invention was made to add accepting an identification of music content desired by said consumer feature to the method of a consumer purchasing music of Downs because Hunter teaches that adding the feature helps to download only those that are indicated as being desirable to the customer by the processed music preference information (§ 0081).

15. As per claim 2, Downs and Hunter teach the method in accordance with claim 1 described above. Downs further teaches wherein said step of establishing a communication link comprises a server of said single source providing information to said first computing device via a communication path, at least a portion of said path comprising the Internet (column 1, lines 51-62; column 2, lines 59-64; column 3, lines 48-53; columns 6 and 16-21).

16. As per claim 4, Downs and Hunter teach the method in accordance with claim 1 described above. Downs further teaches wherein said step of creating said account comprises

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accepting information regarding said consumer and accepting monetary funds for association with said account (Figs. 1C and 15A; column 2, lines 35-53; column 18-19).

17. As per claim 5, Downs and Hunter teach the method in accordance with claim 1 described above. Downs further teaches including the step of said single source collecting music content information available from said plurality of content providers (column 2, line 26-column 3, line 38; column 6, lines 34-65; column 16, lines 55-66; columns 17-21).

18. As per claim 6, Downs and Hunter teach the method in accordance with claim 5 described above. Downs further teaches including the step of providing some or all of said music content information to said consumer (column 10, lines 4-18; column 19).

19. As per claim 7, Downs and Hunter teaches the method in accordance with claim 5 described above. Downs further teaches wherein said step of accepting an identification of music content desired by said consumer comprises accepting input regarding particular music content information collected by said single source (column 14, lines 6-27; columns 18 and 52-53).

20. As per claim 8, Down and Hunter teach the method in accordance with claim 5 described above. Downs further teaches including the step of displaying results of particular music content information matching said music content identified by said consumer and accepting selection of some or all of said music content information results (column 1, lines 51-62; column 2, line 54-column 3, line 38; column 6, lines 34-65; column 16, lines 55-66; columns 17-21; column 42, lines 10-21; column 45 , lines 15-25).

21. As per claim 9, Downs and Hunter teach the method in accordance with claim 8 described above. Downs further teaches wherein said results comprise the identify of the one or

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more music content providers providing the identified content and the price of that content (column 1, lines 51-62; column 2, line 54-column 3, line 38; column 6, lines 34-65; column 16, lines 55-66; columns 17-21; column 42, lines 10-21; column 45 , lines 15-25).

22. Claims 3 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Downs et al., US Patent Number: 6,226,618 B1 in view of Hunter et al., US Publication Number: 2002/0111912 A1, further in view of Official Notice.

23. As per claim 3, Downs and Hunter teach the method in accordance with claim 1 described above. Downs does not teach including the step of said single source creating said account of said consumer. Official Notice is taken that source creating account of consumer is old and well established in the business of electronic commerce as a convenient way for online retailer or user to maintain record of traction. It would have been obvious to one having ordinary skill in the art at the time of the invention to have included source creating account of consumer to consumer purchasing music in electronic form.

24. As per claim 10, Downs and Hunter teach the method in accordance with claim 1 described above. Downs does not teach including the step of said single source paying said music provider providing said data representing said music content for said content. Official Notice is taken that source paying music provider providing data representing said music content for content is old and well established in the business of commercial transaction as an efficient way for online store to provide compensation to provider. It would have been obvious to one having ordinary skill in the art at the time of the invention to have included source paying music provider providing data representing said music content for content to consumer purchasing music in electronic form.

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25. As per claim 11, Downs and Hunter teach method in accordance with claim 1 described above. Downs does not teach wherein said step of transmitting said data comprises transmitting said data by a second communication link from said music provider to said single source and then from said single source to said first computing device. Official Notice is taken that transmitting data by a communication link from music provider to single source and then from said source to device is old and well established in the business of online music store as a convenient and efficient way to obtain desired content from provider to consumer. It would have been obvious to one having ordinary skill in the art at the time of the invention to have included transmitting data by a communication link from music provider to single source and then from said source to device to consumer purchasing music in electronic form.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARISSA LIU whose telephone number is (571)270-1370. The examiner can normally be reached on IFP.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James P Trammell/
Supervisory Patent Examiner, Art Unit 3694